

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed March 25, 2004. Applicants respectfully request reconsideration and favorable action in this case.

Section 103 Rejections

The Office Action rejects Claims 1, 2, 6, 11-15, 19, 24-28, 32 and 37-39 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,600,710 issued to Weisser et al., ("*Weisser*") and in view of U.S. Patent No. 6,301,349 issued to Malik ("*Malik*"). Applicants respectfully traverse these rejections for the reasons stated below.

Claim 1 is directed to a method for prioritized access to a messaging system, in which a request by a user to connect with the messaging system is received at an access controller. The method includes determining whether the messaging system is available. If the messaging system is not available, the request is queued and a connection is maintained between the caller and the access controller. Neither Weisser nor Malik, alone or in combination, disclose, teach, or suggest each of these limitations.

The Office Action contends that *Weisser* discloses the limitation "receiving . . . a request . . . to be connected with a messaging system." However, as the Office Action readily admits, *Weisser* does not disclose a messaging system. Instead, *Weisser* discloses receiving a request to be connected with a called party. *Weisser* does not contemplate that the called party can be a messaging system.

In order to cure this deficiency, the Office Action purports to combine the voicemail service ("VMS") of *Malik* with the teachings of *Weisser*. However, this combination fails to obviate Claim 1, since the VMS of *Malik* is used to connect with unanswered calls that are directed to the called party, if the called party is unavailable. Thus, neither *Weisser*, nor *Malik*, nor the combination thereof, contemplate that a messaging system may be unavailable.

Thus, neither *Malik* nor *Weisser* disclose, teach or suggest the limitation "determining whether the messaging system is available," as required by Claim 1. This is

true because *Weisser* does not disclose a messaging system and *Malik* does not contemplate that the messaging system might be unavailable.

Weisser and *Malik* cannot be combined since they teach different, and mutually exclusive methods for handling calls when the called party is unavailable. *Weisser* teaches that calls are directed to a Service Node to play advertisements to the caller, if the called party is not available. *Malik*, on the other hand, teaches that calls are directed to a voicemail service when the called party is not available. Any combination of these teachings will render each of the references inoperable for its intended purpose. For at least these reasons, Applicants respectfully contend that Claim 1 is patentably distinguishable from the references cited by the Office Action.

Similar to Claim 1, each of Claims 14 and 27 include limitations related to determining whether a messaging system is available. As discussed above with regard to Claim 1, this limitation is not disclosed, taught or suggested by *Weisser*, *Malik*, or any combination thereof. For at least these reasons, Applicants respectfully contend that Claims 14 and 27 are patentably distinguishable from the references cited by the Office Action.

The Office Action rejects Claims 3-5, 16-18 and 29-31 under 35 U.S.C. § 103(a) as being unpatentable over *Weisser et al* as applied to Claim 1 above, and in view of U.S. Patent No. 6,519,333 issued to Malik ("Malik-333"). Applicants respectfully traverse these rejections for the reasons stated below.

Claims 3-5, 16-18, and 29-31 each depend, either directly or indirectly, from Claims 1, 14 and 27, respectively. Therefore, Applicants respectfully contend that Claims 3-5, 16-18, and 29-31 are each patentably distinguishable from the references cited by the Examiner for example, for the same reasons discussed above with regard to their respective base claims.

Claim 3 includes limitations regarding determining a class of service for the connection, and queuing the request based on the class of service. The Office Action relies upon a combination of *Weisser* and *Malik-333* in the rejection of Claim 3. However, neither *Weisser* nor *Malik-333* disclose queuing a request based on the class of service. The Office

Action contends that *Malik-333* discloses determining a class of service and routing a call based on the class of service. *See Office Action, Page 3, Paragraph 2.* According to *Malik-333*, the class of service may be used to provide two levels of enhanced ISP connections. *See Malik-333, Column 4, Lines 47-64.* Firstly, the telephone service provider can use the class of service to determine the best route for each individual call. *Id.* Also, the ISP can determine the class of service prior to answering the call and make a business decision whether or not the call should be answered. *Id.* Neither embodiment contemplates queuing a request based upon the class of service, as delineated in Claim 3. For at least these reasons, Applicants respectfully contend that Claim 3 is patentably distinguishable from the references cited by the Examiner.

Similar to Claim 3, each of Claims 16 and 29 include limitations related to queuing a request based upon the class of service. Therefore, for similar reasons to those discussed above with regard to Claim 3, Applicants respectfully contend that Claims 16 and 29 are patentably distinguishable from the references cited by the Examiner.

Claims 4, 5, 17, 18, 30 and 31 each depend from one of Claims 3, 16, and 29. Therefore, Applicants respectfully contend that Claims 4, 5, 17, 18, 30 and 31 are each patentably distinguishable from the references cited by the Examiner for example, for the same reasons discussed above with regard to Claim 3.

The Office Action rejects Claims 7, 8, 20, 21, 33 and 34 under 35 U.S.C. § 103(a) as being unpatentable over *Weisser et al* as applied to Claim 3 above, and in view of *Malik*, *Malik-333*, and U.S. Patent No. 6,493,445 issued to Garland et al. ("Garland"). Applicants respectfully traverse these rejections for the reasons stated below.

Each of Claims 7, 8, 20, 21, 33 and 34 depend, either directly or indirectly, from one of Claims 1, 14 and 27. Therefore, Applicants respectfully contend that Claims 7, 8, 20, 21, 33 and 34 are each patentably distinguishable from the references cited by the Examiner for example, for the same reasons discussed above with regard to their respective base claims.

Moreover, in accordance with Claim 7, the class of service includes a priority associated with a called party. According to the Office Action, *Garland* teaches a class of service of the called party, and it would have been obvious to have the class of service include a priority associated with a called party. However, none of the references cited by the Examiner disclose, teach, or suggest that the class of service includes a priority associated with a called party. Even assuming for purposes of argument that *Garland* discloses a class of service of a called party, neither *Garland* nor any reference cited by the Examiner discloses, teaches, or suggests that the class of service includes a priority associated with the called party. For at least these reasons, Applicants respectfully contend that Claim 7 is patentably distinguishable from the references cited by the Office Action.

Similar to Claim 7, each of Claims 20 and 33 include limitations that are related to a class of service that includes a priority associated with a called party. Therefore, Applicants respectfully contend that Claims 20 and 33 are each patentably distinguishable from the references cited by the Examiner for example, for the same reasons discussed above with regard to Claim 7.

Claims 8, 21 and 34 each depend from Claims 7, 20, and 33, respectively. Therefore, Applicants respectfully contend that Claim 8, 21 and 34 are each patentably distinguishable from the references cited by the Examiner for the same reasons discussed above with regard to their respective base and intervening claims.

The Office Action rejects Claims 9, 10, 22, 23, 35 and 36 under 35 U.S.C. § 103(a) as being unpatentable over *Weisser et al* as applied to Claim 3 above, and in view of *Malik*, *Malik-333*, and U.S. Patent No. 6,412,048 issued to Chauvel et al. ("Chauvel"). Applicants respectfully traverse these rejections for the reasons stated below.

Claims 9, 10, 22, 23, 35 and 36 each depend from Claims 1, 14 or 27. Therefore, Applicants respectfully contend that Claims 9, 10, 22, 23, 35 and 36 are each patentably distinguishable from the references cited by the Examiner for example, for the same reasons discussed above with regard to their respective base claims.

The Office Action contends that *Chauvel* teaches “priority based on type of request.” *See Office Action, Page 5, Paragraph 4.* However, Claims 9, 22 and 35 each include limitations related to a class of service that includes a priority associated with type of request for connection. *Chauvel* is silent as to how “priority” is associated with class of service. For at least these reasons, Applicants respectfully contend that Claims 9, 22 and 35 are each patentably distinguishable from the references cited by the Examiner.

The Office Action rejects Claim 40 under 35 U.S.C. § 103(a) as being unpatentable over *Weisser et al.*, and in view of *Malik*, and U.S. Patent No. 6,529,500 issued to Pandharipande (“*Pandharipande*”). The Office Action rejects Claim 41 under 35 U.S.C. § 103(a) as being unpatentable over *Weisser et al.*, as stated in Claim 40 above, and in view of *Malik*, *Malik-333* and *Pandharipande*. The Office Action rejects Claim 42 under 35 U.S.C. § 103(a) as being unpatentable over *Weisser et al.*, as stated in Claim 40 above, and in view of *Malik*, *Pandharipande*, and in view of U.S. Patent No. 6,324,271 issued to Sawyer et al. (“*Sawyer*”). Applicants respectfully traverse these rejections for the reasons stated below.

Claim 40 is directed to a method for prioritized access to a messaging system that includes the limitation “determining at [an] access controller whether ports of [a] messaging system are available.” As discussed above with regard to Claim 1, *Weisser* and *Malik* fail to disclose, teach, or suggest each of these limitations. Moreover, *Pandharipande* does not cure this deficiency, as *Pandharipande* does not contemplate ports of a messaging system. For similar reasons discussed with regard to Claim 1 above, Applicants respectfully contend that Claim 40 is patentably distinguishable from the references cited by the Examiner.

Claims 41 and 42 each depend from Claim 40. Therefore, Applicants respectfully contend that Claims 41 and 42 are each patentably distinguishable from the references cited by the Office Action for example, for the same reasons discussed above with regard to Claim 40.

Conclusions

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicants believe no fee is due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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